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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,905	03/21/2001	Philip Song	DATA 61	4684

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12/16/2002

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EXAMINER

DAVIS, DANIEL J

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/813,905

Applicant(s)

SONG ET AL. *CH*

Examiner

D Jacob Davis

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-6, 17, 18 and 23 is/are rejected.
- 7) ☒ Claim(s) 7-12, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Simhambhatla et al. (US 6,270,522). Simhambhatla discloses a balloon catheter (Figs. 1-3) comprising a catheter tube 19 and 20, a balloon membrane 14, a tip (the distal tip of the balloon), and a gas lumen insert 23. The catheter tube comprises a gas lumen 22 and an inner lumen 21. The outer tube 19 of the catheter tube is connected on its distal end to the proximal end of the balloon.

Claims 2-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Evard (US 5,242,396). Evard discloses a balloon catheter (Figs. 1-2) comprising a catheter tube 22 and 14, a balloon membrane 12, a tip 20, and a gas lumen insert/removable

elongate body 26 and 28. The outer tube 22 is monolithic with the balloon membrane 12. The catheter comprises an inner lumen 15, and a gas lumen 26. The inner tube 14 defines the inner lumen 15.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simhambhatla in view of Fields et al. (US 5,357,961). Simhambhatla does not disclose a lubricant on the guidewire/gas lumen insert 23. However, Fields discloses that lubricating the guidewire makes its removal easier. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to lubricate Simhambhatla's guidewire in order to allow for easier removal.

Claims 17, 18 and 23 are rejected under 35 U.S.C. 103(a) as being obvious over Simhambhatla et al. Simhambhatla discloses a guidewire/gas lumen insert 23 within a lumen 22, but does not disclose that proportional cross-section that the lumen occupies is 1/3, 1/2 or the entire lumen by the guidewire. Nevertheless it would be obvious to one of ordinary skill in the art at the time the invention was made to make the guidewire any proportional cross section. For claim 23, note that the guidewire occupies the entire length of the catheter.

***Allowable Subject Matter***

Claims 13-14 are allowed.

Claims 7-12 and 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to disclose or suggest a coil and connector connected to a proximal end of the catheter. The prior art fails to disclose or suggest an inner tube having different materials on its proximal and distal ends.

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D Jacob Davis whose telephone number is (703) 305-1232. The examiner can normally be reached on M-F.

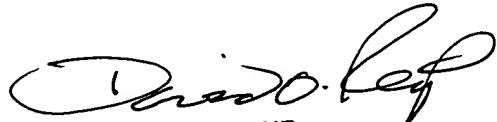
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

DJD  
December 10, 2002



DAVID O. REIP  
PRIMARY EXAMINER